

EXHIBIT "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

LATONYA STEVENSON,

Plaintiff,

v.

TYSON FOODS, INC.,

Defendant.

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§
§
§

CIVIL ACTION NO. 9:21-cv-00287
JURY TRIAL DEMANDED

INFORMATION PURSUANT TO LOCAL RULE CV-81(c)

(1) A list of all parties in the case, their party type (e.g., plaintiff, defendant, intervenor, receiver, etc.) and current status of the removed case (e.g., pending, dismissed);

LaTonya Stevenson
Plaintiff

Tyson Foods, Inc.
Defendant

The removed case is currently pending.

(2) A civil cover sheet and a certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g. complaints, amended complaints, supplemental complaints, counterclaims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);

See attached civil cover sheet and documents attached to Defendant Tyson Foods, Inc.'s Notice of Removal as ***Exhibit A***.

(3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by him/her;

Coby Steele
Texas State Bar No. 24124832
Email: e-service@daspitlaw.com
DASPIT LAW FIRM
440 Louisiana Street, Suite 1400
Houston, Texas 77002
Telephone: (713) 322-4878
Facsimile: (713) 587-9086

Counsel for Plaintiff LaTonya Stevenson

Zach T. Mayer
Texas State Bar No. 24013118
Email: zmayer@mayerllp.com
J. Edward Johnson
State Bar No. 24070001
Email: ejohnson@mayerllp.com
G. Adrian Galvan
State Bar No. 24108601
Email: agalvan@mayerllp.com
MAYER LLP
750 N. St. Paul Street, Suite 700
Dallas, Texas 75201
Telephone: 214.379.6900
Facsimile: 214.379.6939

Counsel for Defendant Tyson Foods, Inc.

(4) A record of which parties have requested a trial by jury (this information is in addition to filing a separate jury demand pursuant to Local Rule CV-38(a)); and

Defendant, Tyson Foods, Inc.

(5) The name and address of the court from which the case is being removed.

The 123rd Judicial District Court of Shelby County, Texas
200 San Augustine Street
Center, TX 75935

Date Printed: Mon Nov 08 11:13:34 CST 2021

Case Summary

Cause Number: 21CV35822

Last Filed: 10/11/2021

Style: LATONYA STEVENSON V. TYSON FOODS, INC.

Case Type: Injury or Damage: Other Injury Damage

Category: Civil

Court: 123rd District Court

No Docket Sheet Data Found

STATE OF TEXAS
COUNTY OF SHELBY
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. _____ Page _____ Minutes _____ and on file in my office.

Witness my official hand and seal of office, this 11/18/21.

LORI OLIVER, DISTRICT CLERK
SHELBY COUNTY, TEXAS

By Lauren Harris



Lori Oliver, District Clerk
Shelby County, Texas
A CERTIFIED COPY
of _____

481511

21CV35822

Filed 10/11/2021 11:03 AM
Lori Oliver
District Clerk
Shelby County, Texas
Lauren Harris

CAUSE NO. 21CV35822

LATONYA STEVENSON	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	SHELBY COUNTY, TEXAS
	§	
TYSON FOODS, INC.	§	
	§	
<i>Defendant.</i>	§	123 RD JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

Plaintiff LaTonya Stevenson (hereinafter, "Plaintiff"), complains of Defendant Tyson Foods, Inc. (hereinafter, "Defendant"), and would respectfully show the Court that:

Discovery Control Plan

1. Plaintiff intends to conduct discovery in this matter under Level 3 of the Texas Rules of Civil Procedure.

Jurisdiction and Venue

2. The claims asserted arise under the common law of Texas. This Court has jurisdiction and venue is proper because all or a substantial part of the events or omissions giving rise to the claim occurred in Shelby County, Texas.

Statement Regarding Monetary Relief Sought

3. Pursuant to Texas Rule of Civil Procedure 47(c), Plaintiff seeks monetary relief of no more than \$250,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorneys' fees and judgment for all other relief to which Plaintiff is justly entitled. Plaintiff further pleads that the amount in controversy in this matter does not exceed \$75,000.00.



Parties

4. Plaintiff, LaTonya Stevenson, is an individual residing in DeSoto Parish, Louisiana.
5. Defendant, Tyson Foods, Inc., is a Delaware corporation with an active right to transact business in Texas. Defendant may be served with process by serving its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, TX 75201.

Misnomer and Alter Ego

6. In the event that any parties are misnamed or not included herein, it is Plaintiff's contention that such was a misnomer and/or such parties are/were alter egos of parties names herein. Specifically, it is Plaintiff's intent to bring suit against the owners and/or operators of Costco.

Facts

7. This lawsuit is necessary as a result of personal injuries that Plaintiff received on or about July 22, 2021. At that time, Plaintiff was working on the trimming line in Defendant's factory at 1019 Shelbyville St, Center, TX 75935, when one of Defendant's employees was not paying attention and cut Plaintiff. Due to Defendant's negligence, Plaintiff suffered extensive and severe injuries. At all times material hereto, one or more of Defendant's employees and/or agents supervised.
8. Defendant was negligent and/or negligent *per se* for one or more of the following reasons, each of which act and/or omission, individually or collectively, constitutes negligence and/or negligence *per se* which proximately caused the incident and Plaintiff's resulting damages:
 - a. Negligent supervision of their subcontractors;
 - b. Negligent supervision of their employees;
 - c. Failed to avoid and/or protect against work-related hazards;



- d. Failed to provide an adequately safe work environment for the work that Plaintiff was hired to perform;
 - e. Failed to ensure the safe operation of permitted machinery and/or vehicles including requirements related to vehicle routing and weight limits;
 - f. Negligently conducted active operations on the premises;
 - g. Negligent hiring and/or retention of employees;
 - h. Negligent training and/or supervision of their employees, invitees and subcontractors;
 - i. Acting in a manner below the applicable standard of care;
 - j. Violating applicable, local, state, and federal laws and/or;
 - k. Other acts so deemed negligence.
9. Each of the foregoing negligent acts and/or omissions, whether taken singularly or in any combination, was a proximate cause of Plaintiff's injuries and damages that are described below.

Damages

10. As a result of these acts or omissions, Plaintiff sustained damages recognizable by law.
11. By virtue of the actions and conduct of the Defendant set forth above, Plaintiff was seriously injured and is entitled to recover the following damages:
- a. Past and future medical expenses;
 - b. Past and future pain, suffering and mental anguish;
 - c. Past and future physical impairment;
 - d. Past and future physical disfigurement;
 - e. Past lost wages and future loss of earning capacity.



12. By reason of the above, Plaintiff was entitled to recover damages from the Defendant in an amount within the jurisdictional limits of this Court, as well as pre and post-judgment interest.

Duty to Disclose

13. Pursuant to 194, Tex. R. Civ. P. exempted by Rule 194.2(d), Defendant must, without awaiting a discovery request, provide to Plaintiff the information or material described in Rule 194.2, Rule 194.3, and Rule 194.4.

Initial Disclosures

14. Pursuant to Rule 194, Tex. R. Civ. P., Defendant must, without awaiting a discovery request, provide information or materials described in Texas Rule of Civil Procedure 194.2 in Defendant's initial disclosure at or within 30 days after the filing of the first answer. Copies of documents and other tangible things must be served with Defendant's response.

Rule 193.7 Notice

15. Plaintiff hereby gives actual notice to Defendant that any and all documents produced may be used against Defendant at any pre-trial proceeding and/or at trial of this matter without the necessity of authenticating the documents.

Prayer

Plaintiff prays that this citation issue and be served upon Defendant in a form and manner prescribed by law, requiring that Defendant appear and answer, and that upon final hearing, Plaintiff has judgment against Defendant in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post judgment interests, all costs of Court, and all such other and further relief, to which she may be justly entitled.



Respectfully submitted,

DASPIT LAW FIRM

/s/ Coby Steele

Coby Steele

Texas State Bar No. 24124832

440 Louisiana Street, Suite 1400

Houston, Texas 77002

Telephone: (713) 322-4878

Facsimile: (713) 587-9086

Email: e-service@daspitlaw.com

ATTORNEY FOR PLAINTIFF



Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mahmood Ali on behalf of John Daspit
 Bar No. 24048906
 mali@daspitlaw.com
 Envelope ID: 58056654
 Status as of 10/12/2021 4:41 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Mahmood Ali		mali@daspitlaw.com	10/11/2021 11:03:17 AM	SENT
Jaime Holder		jholder@proactivelegal.com	10/11/2021 11:03:17 AM	SENT
Alma Lira		Alira@proactivelegal.com	10/11/2021 11:03:17 AM	SENT
John A Daspit		Eservice@daspitlaw.com	10/11/2021 11:03:17 AM	SENT
Daspit Proactive Legal		daspit@proactivelegal.com	10/11/2021 11:03:17 AM	SENT

STATE OF TEXAS
 COUNTY OF SHELBY
 I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. _____, Page _____ Minutes of said court on file in my office.

Witness my official hand and seal of office, this 11/8/21

LORI OLIVER, DISTRICT CLERK
 SHELBY COUNTY, TEXAS

By Lauren Harris



Lori Oliver, District Clerk
 Shelby County, Texas
A CERTIFIED COPY
 pg 11 of 11

CIVIL PROCESS REQUEST

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: _____ CURRENT COURT: Shelby County Judicial District Court

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Plaintiff's Original Petition

FILE DATE OF MOTION: 10/11/2021
Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: Tyson Foods, Inc.

ADDRESS: 1999 Bryan Street, Suite 900, Dallas, Texas 75201

AGENT, (if applicable): CT Corporation System

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): SEND CITATION ONLY TO EMAILS BELOW

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: Proactive Legal Solutions, Box 30 Phone: 832-209-7760
☐ MAIL ☐ CERTIFIED MAIL
☐ PUBLICATION:
Type of Publication: ☐ COURTHOUSE DOOR, or
☐ NEWSPAPER OF YOUR CHOICE: _____
☒ OTHER, explain dasplit@proactivelegal.com & e-service@dasplitlaw.com & jholder@proactivelegal.com (EMAIL ONLY)

2. NAME: _____

ADDRESS: _____

AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: Proactive Legal Solutions Phone: 832-209-7760
☐ MAIL ☐ CERTIFIED MAIL
☐ PUBLICATION:
Type of Publication: ☐ COURTHOUSE DOOR, or
☐ NEWSPAPER OF YOUR CHOICE: _____
☐ OTHER, explain _____

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Coby Steele TEXAS BAR NO./ID NO. 24124832

MAILING ADDRESS: 440 Louisiana Street, Suite 1400, Houston, Texas 77002

PHONE NUMBER: 713 588-0383 FAX NUMBER: 713 587-9086
area code phone number area code fax number

EMAIL ADDRESS: dasplit@proactivelegal.com & e-service@dasplitlaw.com & jholder@proactivelegal.com



Lori Oliver, District Clerk
Shelby County, Texas
A CERTIFIED COPY
pg 1 of 2

SERVICE REQUESTS WHICH CANNOT BE PROCESSED BY THIS OFFICE WILL BE HELD FOR 30 DAYS PRIOR TO CANCELLATION. FEES WILL BE REFUNDED ONLY UPON REQUEST, OR AT THE DISPOSITION OF THE CASE. SERVICE REQUESTS MAY BE REINSTATED UPON APPROPRIATE ACTION BY THE PARTIES.

INSTRUMENTS TO BE SERVED:

(Fill In Instrument Sequence Number, i.e. 1st, 2nd, etc.)

ORIGINAL PETITION

_____ AMENDED PETITION
_____ SUPPLEMENTAL PETITION

COUNTERCLAIM

_____ AMENDED COUNTERCLAIM
_____ SUPPLEMENTAL COUNTERCLAIM

CROSS-ACTION:

_____ AMENDED CROSS-ACTION
_____ SUPPLEMENTAL CROSS-ACTION

THIRD-PARTY PETITION:

_____ AMENDED THIRD-PARTY PETITION
_____ SUPPLEMENTAL THIRD-PARTY PETITION

INTERVENTION:

_____ AMENDED INTERVENTION
_____ SUPPLEMENTAL INTERVENTION

INTERPLEADER

_____ AMENDED INTERPLEADER
_____ SUPPLEMENTAL INTERPLEADER

INJUNCTION

MOTION TO MODIFY

SHOW CAUSE ORDER

TEMPORARY RESTRAINING ORDER

BILL OF DISCOVERY:

ORDER TO: _____
(specify)

MOTION TO: _____
(specify)

PROCESS TYPES:

NON WRIT:

CITATION
ALIAS CITATION
PLURIES CITATION
SECRETARY OF STATE CITATION
COMMISSIONER OF INSURANCE
HIGHWAY COMMISSIONER
CITATION BY PUBLICATION
NOTICE
SHORT FORM NOTICE

PRECEPT (SHOW CAUSE)
RULE 106 SERVICE

SUBPOENA

WRITS:

ATTACHMENT (PROPERTY)
ATTACHMENT (WITNESS)
ATTACHMENT (PERSON)

CERTIORARI

EXECUTION
EXECUTION AND ORDER OF SALE

GARNISHMENT BEFORE JUDGMENT
GARNISHMENT AFTER JUDGMENT

HABEAS CORPUS
INJUNCTION
TEMPORARY RESTRAINING ORDER

PROTECTIVE ORDER (FAMILY CODE)
PROTECTIVE ORDER (CIVIL CODE)

COUNTY OF SHELBY
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. _____ Page _____ of said court on file in my office.

SCIRE FACIAS
SEQUESTRATION
SUPERSEDEAS

LORI OLIVER, DISTRICT CLERK
SHELBY COUNTY, TEXAS

By Lauren Harris



Lori Oliver, District Clerk
Shelby County, Texas
A CERTIFIED COPY
pg 2 of 2



LORI OLIVER, DISTRICT CLERK - P.O. DRAWER 1953, CENTER, TX 35 936-598-4164

Cause No. 21CV35822

THE STATE OF TEXAS

LATONYA STEVENSON

V.

TYSON FOODS, INC

IN THE DISTRICT COURT

OF

SHELBY COUNTY, TEXAS

TO: TYSON FOODS, INC., Agent: CT CORPORATION SYSTEM, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201 :

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

You are hereby commanded to appear by filing a written answer to the attached **PLAINTIFF'S ORIGINAL PETITION** or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation, before the 123/273RD Judicial District Court of Shelby County, Texas at the Courthouse in said County in Center, Texas. Said Plaintiff's Petition was filed in said court on the 11TH day of October, 2021 in the above entitled cause.

The nature of Plaintiff's demand is fully shown by a true and correct copy **PLAINTIFF'S ORIGINAL PETITION** accompany this citation and made a part hereof.

Issued and given under my hand and seal of said Court at Shelby County Texas this 13TH day of October, 2021

Attorney for Plaintiff or Plaintiffs:
Coby Steele
440 Louisiana Street, Suite 1400
Houston, Texas 77002
(713) 322 - 4878

Lori Oliver
District Clerk
Shelby County, Texas

By Lauren Harris
Lauren Harris, Deputy Clerk

**Service Return**

Came to hand on the _____ day of _____, 20____, at _____ m and executed on the _____ day of _____, 20____, at _____ M by delivering to the within named _____ in person a true copy of this citation, with attached copy(ies) of the _____ at _____

[] Not executed. The diligence use in finding defendant being _____

[] Information received as to the whereabouts of defendant being _____

Service Fee: \$ _____

Service ID No. _____

Sheriff/Constable

County, Texas

Deputy/Authorized Person

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON _____, 20____.

I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession as appears of record in Vol. _____ Page _____ of said court on file in my office.

Notary Public

Witness my official hand and seal of office, this 11/18/21.

LORI OLIVER, DISTRICT CLERK
SHELBY COUNTY, TEXAS

By Lauren Harris



Lori Oliver, District Clerk
Shelby County, Texas
A CERTIFIED COPY
pg 1 of 1

21CV35822

District Clerk <district.clerk@co.shelby.tx.us>

Wed 10/13/2021 3:43 PM

To: DASPIT@PROACTIVELEGAL.COM <DASPIT@PROACTIVELEGAL.COM>; E-SERVICE@DASPITLAW.COM <E-SERVICE@DASPITLAW.COM>; JHOLDER@PROACTIVELEGAL.COM <JHOLDER@PROACTIVELEGAL.COM>

I HAVE ATTACHED THE REQUESTED DOCUMENTS. THANK YOU

LAUREN HARRIS
DEPUTY DISTRICT CLERK

STATE OF TEXAS
County of Shelby
I, Lori Oliver, District Clerk of Shelby
County, Texas, do hereby certify that the
above described documents are true and
correct copies of the original documents
on file in my office.

Witness my hand and seal of office,
this 11/18/21.

LORI OLIVER, DISTRICT CLERK
SHELBY COUNTY, TEXAS

By Lauren Harris



Lori Oliver, District Clerk
Shelby County, Texas
A CERTIFIED COPY
pg 1 of 1

21CV35822

Filed 10/19/2021 7:33 AM

Lori Oliver

District Clerk

Shelby County, Texas

Jessica Marshall

CAUSE NO. 21CV35822

LATONYA STEVENSON

Plaintiff,

VS.

TYSON FOODS, INC.

Defendant.

§
§
§
§
§
§

IN THE COURT OF

SHELBY COUNTY, TEXAS

IN THE 123RD JUDICIAL DISTRICT COURT

AFFIDAVIT OF SERVICE

On this day personally appeared Mauricio Segovia who, being by me duly sworn, deposed and said:

"The following came to hand on Oct 15, 2021, 1:04 pm,

CITATION, PLAINTIFF'S ORIGINAL PETITION,

and was executed at 1999 BRYAN ST SUITE 900, DALLAS, TX 75201-3123 within the county of DALLAS at 01:51 PM on Fri, Oct 15 2021, by delivering a true copy to the within named

TYSON FOODS, INC., BY SERVING REGISTERED AGENT, CT CORPORATION SYSTEM
accepted by Intake Specialist: Kirk Atkins

In person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."

Mauricio Segovia

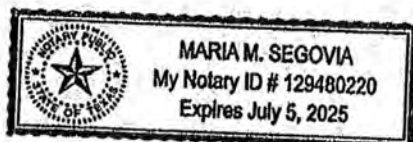
Certification Number: PS2-1689

Certification Expiration: 8/31/2022

BEFORE ME, a Notary Public, on this day personally appeared Mauricio Segovia, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON

10/16/2021



Notary Public, State of Texas



Lori Oliver, District Clerk
Shelby County, Texas

A CERTIFIED COPY

pg 1 of 2

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 58303843

Status as of 10/19/2021 3:47 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Alma Lira		Alira@proactivelegal.com	10/19/2021 7:33:54 AM	SENT
Daspit Proactive Legal		daspit@proactivelegal.com	10/19/2021 7:33:54 AM	SENT
Jaime Holder		jholder@proactivelegal.com	10/19/2021 7:33:54 AM	SENT
John A Daspit		Eservice@daspitlaw.com	10/19/2021 7:33:54 AM	SENT
Mahmood Ali		mali@daspitlaw.com	10/19/2021 7:33:54 AM	SENT

Witness my hand and seal of office,
this 11/18/21.

LORI OLIVER, DISTRICT CLERK
SHELBY COUNTY, TEXAS

By Lauren Harris



Lori Oliver, District Clerk
Shelby County, Texas
A CERTIFIED COPY
pg 2 of 2

21CV35822

Filed 11/8/2021 7:43 AM
Lori Oliver
District Clerk
Shelby County, Texas
Lauren Harris

CAUSE NO. 21CV35822

LATONYA STEVENSON,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	123 RD JUDICIAL DISTRICT
	§	
TYSON FOODS, INC.,	§	
	§	
<i>Defendant.</i>	§	SHELBY COUNTY, TEXAS

DEFENDANT TYSON FOODS, INC.'S ORIGINAL ANSWER

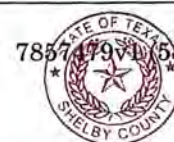
Defendant Tyson Foods, Inc. ("Defendant") files its Original Answer and states the following:

**I.
GENERAL DENIAL**

1. Defendant denies each and every, all and singular, the material allegations contained within the Original Petition filed by Plaintiff, Latonya Stevenson ("Plaintiff"), and demands strict proof thereof.

**II.
AFFIRMATIVE DEFENSES**

2. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that any damages sought to be recovered by Plaintiff should be reduced to the extent that Plaintiff has failed to mitigate her claimed damages and/or failed to take the reasonable steps that a person of ordinary prudence in a similar situation would have taken to avoid the claimed damages. Accordingly,



Defendant is entitled to an instruction to the jury that they shall not consider elements of damages incurred and caused by any failure to mitigate damages.

3. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that in the unlikely event that an adverse judgment would be rendered against it, Defendant would respectfully request all available credits and/or offsets as provided by the Texas Civil Practice and Remedies Code and under Texas law.

4. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that in addition to any other limitation under law, Plaintiff's recovery of medical or health care expenses be limited to the amount actually paid or incurred by or on behalf of Plaintiff, pursuant to Section 41.0105 of the Texas Civil Practices and Remedies Code.

5. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that pursuant to the Patient Protection and Affordable Care Act ("ACA") and common-law, Plaintiff has a duty to mitigate the amount of future damages for medical care by purchasing a health insurance policy no later than March 31, 2014 in accordance with the Individual Mandate prescribed in 26 U.S.C. § 5003A *et. seq.* Further, Defendant's potential liability for future medical care should be limited to the amounts not covered under the ACA for co-pays and deductibles. In the alternative, if Plaintiff has purchased a health insurance policy pursuant to the Individual Mandate, Plaintiff's future medical expenses should be



limited to the amount the ACA will actually pay for medical expenses and not the full retail cost of future medical care.

6. By way of affirmative defense, Defendant invokes Chapter 33 of the Texas Civil Practices & Remedies Code and pleads that Plaintiff's claims are barred, in whole or in part, by the contributory and/or comparative negligence of Plaintiff and/or other parties, or alternatively, that the conduct of other parties, including Plaintiff, was an independent, intervening, superseding, and/or the sole proximate cause of Plaintiff's alleged damages. Therefore, Defendant is not liable for such damages.

7. By way of affirmative defense, Defendant pleads that Plaintiff's damages, if any, were caused by preexisting injuries and/or preexisting medical conditions that occurred or arose before the incident forming the basis of this lawsuit.

8. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that Plaintiff's damages, if any, were solely caused by a new and independent cause. Therefore, Defendant is not liable for such damages.

9. Pleading further, alternatively, and by way of affirmative defense, Defendant invokes Section 18.091 of the Texas Civil Practices & Remedies Code requiring that Plaintiff prove her alleged loss of earnings and/or loss of earning capacity in a form that represents her net loss after reduction for income tax payments or unpaid tax liability. Additionally, Defendant requests that the Court

instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff is subject to federal and state income taxes.

10. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that it is entitled to an offset in the event that Plaintiff is awarded damages for past medical expenses and to the extent that Plaintiff's past medical expenses have already been paid for in accordance with Defendant's Workplace Injury Settlement Program.

11. Defendant hereby gives notice that it intends to rely upon such other defenses or denials, affirmative or otherwise, and to assert third-party claims and any other claims, as may become available or appear during discovery as it proceeds in this matter, and hereby reserves the right to amend its Answer to assert such defenses.

III. JURY DEMAND

12. In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a trial by jury.

IV. PRAYER

13. Defendant Tyson Foods, Inc., prays that Plaintiff take nothing by this suit, that Defendant goes hence with its costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.



Respectfully submitted,

MAYER LLP
750 N. St. Paul Street, Suite 700
Dallas, Texas 75201
Telephone: 214.379.6900
Facsimile: 214.379.6939

By: /s/ Zach T. Mayer
Zach T. Mayer
State Bar No. 24013118
Email: zmayer@mayerllp.com
J. Edward Johnson
State Bar No. 24070001
Email: ejohnson@mayerllp.com
G. Adrian Galvan
State Bar No. 24108601
Email: agalvan@mayerllp.com

**ATTORNEYS FOR DEFENDANT
TYSON FOODS, INC.**

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of November 2021, a true and correct copy of the foregoing has been forwarded to all counsel of record, as follows:

Via eFileTexas.gov
e-service@daspitlaw.com
Coby Steele
DASPIT LAW FIRM
440 Louisiana Street, Suite 1400
Houston, Texas 77002

/s/ Zach T. Mayer
Zach T. Mayer

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Shannon Pilgrim on behalf of Zachary Thomas Mayer
 Bar No. 24013118
 spilgrim@mayerllp.com
 Envelope ID: 58928909
 Status as of 11/8/2021 10:22 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Alma Lira		Alira@proactivelegal.com	11/8/2021 7:43:05 AM	SENT
Daspit Proactive Legal		daspit@proactivelegal.com	11/8/2021 7:43:05 AM	SENT
Jaime Holder		jholder@proactivelegal.com	11/8/2021 7:43:05 AM	SENT
John A Daspit		Eservice@daspitlaw.com	11/8/2021 7:43:05 AM	SENT
Mahmood Ali		mali@daspitlaw.com	11/8/2021 7:43:05 AM	SENT
Cathy Preston		cpreston@mayerllp.com	11/8/2021 7:43:05 AM	SENT

Associated Case Party: Tyson Foods, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
G. Adrian Galvan		agalvan@mayerllp.com	11/8/2021 7:43:05 AM	SENT
Edward Johnson		ejohnson@mayerllp.com	11/8/2021 7:43:05 AM	SENT
Zach Mayer		zmayer@mayerllp.com	11/8/2021 7:43:05 AM	SENT

Associated Case Party: LaTonya Stevenson

Name	BarNumber	Email	TimestampSubmitted	Status
Coby Steele	24124832	csteele@daspitlaw.com	11/8/2021 7:43:05 AM	SENT

STATE OF TEXAS
 COUNTY OF SHELBY
 I, Lori Oliver, District Clerk of Shelby County, Texas, do hereby certify that the foregoing is a true and correct copy of the original as filed with me on file in my office.
 this 11/8/21 day of November, 2021.
 LORI OLIVER, DISTRICT CLERK
 SHELBY COUNTY, TEXAS
 By Lauren Harris
 Lori Oliver, District Clerk
 Shelby County, Texas
 A CERTIFIED COPY
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